

Local Civil Rule Amendments 2001 . . . *Not Again!*

(with Amendments through August 1, 2001)



Local Rule No.	Substance of 2001 Change
1.04 – <i>New</i>	Directs parties/counsel to the District of South Carolina’s web site (www.scd.uscourts.gov).
5.03 – <i>New</i>	Requires prior judicial authorization before <i>filing</i> documents under seal. Sets specific procedures to be followed to obtain approval. This Rule does not limit the ability of counsel to enter protective agreements that do not involve the filing of documents. <i>See also</i> LR 26.08 (protective agreements).
6.01 – <i>Amended</i>	<p>Requires that all motions to extend deadlines address specific issues:</p> <ul style="list-style-type: none"> (1) current deadline date; (2) prior extensions; (3) amount of additional time requested (and proposed date); and (4) effect on other deadlines. <p>Requires additional specific information to extend discovery (what has been done and what needs to be done). A proposed amended scheduling order <i>in the form used by the presiding judge</i> must be attached.</p>
6.02 – <i>New</i>	Establishes requirements for seeking protection from appearance in court. <i>NOTE: This Rule is not intended to encourage protection requests, but to stop the growing practice of seeking blanket requests that do not specify the civil actions in which protection is requested or are sent to anyone other than the judge assigned to the specific action.</i>
7.02 – <i>Amended</i>	Clarifies that duty of consultation may not be applicable due to other express exemptions.

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7.05 – <i>Amended</i>	Clarifies what is required in a memorandum in support of or opposition to a motion (<i>e.g.</i> , references to the record). Added a subparagraph and footnote listing other rules that address specific content, timing, or other requirements for specific types of motions.
16.00 (A) - (C) – <i>New</i>	<p>Provides preface information and addresses issues that have arisen since implementing the December 2000 Amendments.</p> <p>(A) Scheduling orders will generally not be issued in cases exempt under FRCP26(a)(1)(E) so that the automatic deadline in LR 26.04 will control.</p> <p>(B) Addresses “usual practice” of waiving the FRCP 26(f) conference in those <i>pro se</i> actions which are not exempt under FRCP 26(a)(1)(E). (The federal rule exempts only <i>prisoner pro se</i> actions). The waiver must still be by order, but this Rule encourages waiver of the conference requirement. The court will still generally require compliance with all other FRCP requirements including: submission of a modified FRCP 26(f) report; exchange of FRCP 26(a)(1)-(3) disclosures; and compliance with LR 26.01 and 26.03.</p> <p>(C) Addresses how to obtain stay of automatic deadlines and entry of the scheduling order when there is a pending motion to dismiss/remand. Stay is not automatic, but requires a <i>separate</i> motion with proposed order. NOTE: the order should not only stay entry of the scheduling order, but also “all federal and local rule deadlines otherwise applicable.”</p>
16.01(A) – <i>Amended</i>	Clarifies that the Judge may waive the FRCP 26(a)(1) & (f) and related Local Civil Rule requirements rather than setting deadlines for them.

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16.02(C)(2) – <i>Amended</i>	Clarifies filing requirements as to expert witness disclosures. Directs counsel to look to scheduling order to see if the court requires filing of some abbreviated disclosure. <i>NOTE: The majority of Judges require filing a certification that the disclosures have been made and naming the experts to prevent disputes at trial as to whether disclosures were made. The report itself is NOT normally filed.</i>
26.01-26.03 – <i>Amended</i>	Clarifies when LR 26.01 responses must be filed in removed actions. Clarifies that cases exempt under FRCP 26(a)(1)(E) are exempt from these Local Civil Rule disclosure requirements, absent order to the contrary. Addresses filing of FRCP 26(f) report without conference in appropriate cases (<i>e.g., pro se</i> cases where the court waives the conference).
26.04 – <i>Amended</i>	Adds deadline for discovery in exempt cases (was previously set for 90 days) for FRCP 26(a)(2) (expert) and 26(a)(3) (pretrial) disclosures. (Exemption in FRCP 26(a)(1)(E) does not cover these two areas.) In practice, there will rarely be an expert in an exempt case.
26.05 – <i>Amended</i>	Removes the requirement to <i>file</i> part of the pretrial brief (questions N & O), absent order to the contrary. These portions will still be exchanged.
26.08 – <i>New</i>	Confirms that protective agreements themselves do not require judicial approval, but that the requirement to comply with LR 5.03 is not waived if documents at issue are subsequently filed under seal.
73.02(C) – <i>Amended</i>	Adds previously deleted provisions for case assignments to Magistrate Judges back to the Rules with minor technical corrections.
73.03 – <i>Amended</i>	Updates requirements for distribution of the “Notice of Availability of Magistrate Judges” to correspond with new scheduling order procedures.
83.I.03(C) – <i>Amended</i>	Allows significant credit for judicial clerkship as alternative means of satisfying trial experience requirements for admission to this District Court’s Bar.
83.I.05 – <i>Amended</i>	Clarifies that a <i>pro hac vice</i> motion is filed by local counsel with supporting affidavit filed by the attorney seeking <i>pro hac vice</i> status. Expressly requires consultation. Addresses general practice of granting motion immediately upon receipt.
83.I.07 – <i>Amended</i>	Adds requirements for motion to withdraw: (1) serve client with motion; (2) provide court with address and phone number of client; and, where applicable, (3) advise client that corporations may not appear <i>pro se</i> .